REMARKS/ARGUMENTS

The present Amendment is being filed in response to the final Official Action on a Request for Continued Examination (RCE). The final Official Action rejects Claims 15-18, 20, 22, 23, 25, 27, 29, 45-48, 50, 52, 53, 55, 57, 59-64, 66, 67, 69, 71 and 73 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0133923 to Watson et al., in view of U.S. Patent Application Publication No. 2003/0083977 to Syed et al. The Official Action then rejects Claims 24, 26, 28, 54, 56, 58, 68, 70 and 72 as being unpatentable over Watson in view of Syed, and further in view of U.S. Patent No. 7,284064 to Connelly; and rejects Claims 21, 51 and 65 as being unpatentable over Watson in view of Syed, and further in view of U.S. Patent Application Publication No. 2003/0066090 to Traw et al. Finally, the Official Action rejects Claims 30-33, 35, 37-44 as being unpatentable over Watson, in view of Connelly; and rejects Claim 36 as being unpatentable over Watson in view of Connelly, and further in view of Traw.

As explained below, Applicants respectfully submit that the claimed invention is patentably distinct from Watson, Syed, Connelly and Traw, taken individually or in any proper combination. In view of the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application. Alternatively, as the remarks presented herein do not raise any new issues or introduce any new matter, Applicants respectfully request entry of this Reply for purposes of narrowing the issues upon appeal.

A. Consideration of Previously-Submitted Information Disclosure Statement

Applicants once again note that an initialed copy of the PTO Form 1449 that was submitted with Applicants' Information Disclosure Statement filed October 31, 2003, has not been returned to Applicants' representative. Accordingly, it is requested that an initialed copy of the Form 1449 be forwarded to the undersigned with the next communication from the PTO.

B. Claims 15-18, 20, 22, 23, 25, 27, 29, 45-48, 50, 52, 53, 55, 57, 59-64, 66, 67, 69, 71 and 73

The Official Action rejects Claims 15-18, 20, 22, 23, 25, 27, 29, 45-48, 50, 52, 53, 55, 57, 59-64, 66, 67, 69, 71 and 73 as being unpatentable over Watson, in view of Syed. As previously explained, according to one aspect of the present invention, as reflected by independent Claim 15, an apparatus is provided that includes a processor and a memory storing executable instructions that in response to execution by the processor cause the apparatus to at least perform a number of functions. As recited, these functions include storing, in the memory, at least one piece of pre-broadcast content. The pre-broadcast content is stored before a scheduled time for broadcast of the same piece(s) of content by a content source, and the scheduled time is specified by a schedule. As also recited, the functions include accessing at least one piece of pre-broadcast content from the memory no sooner than the scheduled time for broadcast of the same piece(s) of content, and presenting the accessed piece(s) of pre-broadcast content consistent with the scheduled time for broadcast of the same piece(s) of content by the content source.

In contrast to independent Claim 15, neither Watson nor Syed, taken individually or in any proper combination, teaches or suggests an apparatus not only storing but not accessing pre-broadcast content before a scheduled time for broadcast of the same content by a content source, but also presenting the pre-broadcast content consistent with the scheduled time for its broadcast. The Official Action cites Syed for disclosing this feature. Applicants respectfully submit, however, that although one could argue Syed discloses restricting access to locally-stored content until its scheduled time for broadcast, Syed does not disclose presenting the content consistent with that scheduled time.

Relative to the above feature of independent Claim 15, the Office Action cites the following paragraph of Syed:

> *[0042] Thus, the iPPG is able to transmit data content (to be broadcast) in advance with the receiver display deactivate flag enabled (data content is not activated). At prime time or at a predetermined broadcast time, the display deactivate flag is enabled, thereby making the pre-download broadcast content available for presentation to the receiver.*

In the preceding paragraph, Syed discloses a constraint to a receiver/terminal access of locally-stored content, which appears similar to Watson disclosing setting a start date at which time a transmitted movie may be accessed from the set-top box. As disclosed, this constraint may be a predetermined broadcast time. But even given this disclosure, Syed does not further disclose presenting the locally-stored content consistent with the broadcast time for the content, similar to independent Claim 15. That is, other than releasing content at its broadcast time, Syed does not disclose that the content is presented consistent with its broadcast time.

Applicants therefore respectfully submit that independent Claim 15, and by dependency Claims 16-18 and 20-29, is patentably distinct from Watson and Syed, taken individually or in any proper combination. Applicants also respectfully submit that independent Claims 30, 45 and 60 recite subject matter similar to that of independent Claim 15, including the aforementioned schedule, and presenting content (accessed from memory) as that same content consistent with the scheduled time for broadcast of the same content by a content source. As such, Applicants respectfully submit that independent Claims 30, 45 and 60, and by dependency Claims 31-33, 35-44, 46-48, 50-59 and 61-73, are also patentably distinct from Watson and Syed, taken individually or in any proper combination, for at least the reasons given above with respect to independent Claim 15.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 15-18, 20, 22, 23, 25, 27, 29, 45-48, 50, 52, 53, 55, 57, 59-64, 66, 67, 69, 71 and 73 as being unpatentable over Watson, in view of Syed is overcome.

C. Claims 24, 26, 28, 54, 56, 58, 68, 70 and 72

The Official Action rejects Claims 24, 26, 28, 54, 56, 58, 68, 70 and 72 as being unpatentable over Watson in view of Syed, and further in view of Connelly. As explained above, independent Claims 15, 30, 45 and 60, and by dependency Claims 16-29, 31-44, 46-59 and 61-73, are patentably distinct from Watson and Syed, taken individually or in any proper combination. Applicants respectfully submit that Connelly does not cure the deficiencies of Watson and Syed. That is, even considering Connelly, none of Watson, Syed or Connelly, taken individually or in any proper combination, teaches or suggests the aforementioned schedule, and

presenting content (accessed from memory) consistent with the scheduled time for broadcast of the same content, as per independent Claims 15, 30, 45 and 60. Applicants therefore respectfully submit that independent Claims 15, 30, 45 and 60, and by dependency Claims 16-29, 31-44, 46-59 and 61-73, are patentably distinct from Watson in view of Syed, and further in view of Connelly.

For at least the foregoing reasons, Applicants submit that the rejection of Claims 24, 26, 28, 54, 56, 58, 68, 70 and 72 as being unpatentable over Watson in view of Syed, and further in view of Connelly, is overcome.

D. Claims 21, 51 and 65

The Official Action rejects Claims 21, 51 and 65 as being unpatentable over Watson in view of Syed, and further in view of Traw. As explained above, independent Claims 15, 30, 45 and 60, and by dependency Claims 16-29, 31-44, 46-59 and 61-73, are patentably distinct from Watson and Syed, taken individually or in any proper combination. Applicants respectfully submit that Traw does not cure the deficiencies of Watson and Syed. That is, even considering Traw, none of Watson, Syed or Traw, taken individually or in any proper combination, teaches or suggests the aforementioned schedule, and presenting content (accessed from memory) consistent with the scheduled time for broadcast of the same content, as per independent Claims 15, 30, 45 and 60. Applicants therefore respectfully submit that independent Claims 15, 30, 45 and 60, and by dependency Claims 16-29, 31-44, 46-59 and 61-73, are patentably distinct from Watson in view of Syed, and further in view of Traw.

For at least the foregoing reasons, Applicants submit that the rejection of Claims 21, 51 and 65 as being unpatentable over Watson in view of Syed, and further in view of Traw, is overcome.

E. Claims 30-33, 35, 37-44

The Official Action rejects Claims 30-33, 35, 37-44 as being unpatentable over Watson, in view of Connelly. However, similar to independent Claim 15, in contrast to independent Claim 30, neither Watson nor Connelly, taken individually or in any proper combination, teaches

or suggests storing but not accessing pre-broadcast content before a scheduled time for broadcast of the same content, and presenting the pre-broadcast content consistent with that scheduled time.

1. Broadcast Schedule

More particularly, in contrast to independent Claim 30, neither Watson nor Connelly, taken individually or in any proper combination, teaches or suggests an apparatus for providing broadcast content whereby a schedule includes a scheduled time for not only broadcasting the content by its source, but also constraining access to the same (pre-broadcast) content from memory of a terminal that previously stored the pre-broadcast content.

As previously explained, Watson discloses a digital home movie library for an on-demand movie service. And in this regard, Watson may disclose setting a start date or an end date specifying when a transmitted movie may be accessed from the set-top box. Contrary to a suggestion of the Official Action, however, setting dates on which a transmitted movie may be accessed does not correspond to a scheduled time for broadcast of a movie, similar to the scheduled time of independent Claim 30.

The Official Action cites Connelly for allegedly disclosing accessing the pre-broadcast content from memory no sooner than the scheduled time for broadcast of the same content. To the contrary, however, Applicants respectfully submit that like Watson, Connelly also does not teach or suggest these features of independent Claim 30. Again, one may argue that Connelly discloses a client storing meta-data before broadcast of content described by the meta-data. Independent Claim 30, on the other hand, recites storing content before the scheduled time for broadcast of the same content. And to the extent that one may argue that Connelly stores meta-data, nowhere does Connelly disclose that its meta-data is stored before the scheduled time for broadcast of the same meta-data (i.e., the same content), similar to independent Claim 30.

2. Access from Memory as Content Broadcast

In further contrast to independent Claim 30, neither Watson nor Connelly, taken individually or in any proper combination, teaches or suggests providing broadcast content,

whereby pre-broadcast content in memory of an apparatus is presented consistent with the scheduled time for broadcast of the same content by a content source. The Official Action also cites Connelly for allegedly disclosing this feature of the present invention. Applicants respectfully submit, however, that Connelly does not in fact disclose accessing content from memory of an apparatus consistent with the scheduled time for broadcast of the same content by a content source. Connelly may disclose receiving meta-data consistent with the schedule for broadcast of the meta-data, but receiving meta-data consistent with the broadcast schedule of the same meta-data is not the same as accessing content from memory consistent with the broadcast schedule of the same content, similar to independent Claim 30.

Applicants therefore respectfully submit that independent Claim 30, and by dependency Claims 31-33 and 35-44, is patentably distinct from Watson and Connelly, taken individually or in any proper combination. Applicants also respectfully submit that independent Claims 15, 45 and 60 recite subject matter similar to that of independent Claim 30, including the aforementioned schedule, and presenting content (accessed from memory) as that same content consistent with the scheduled time for broadcast of the same content by a content source. As such, Applicants respectfully submit that independent Claims 15, 45 and 60, and by dependency Claims 16-18, 20-29, 46-48, 50-59 and 61-73, are also patentably distinct from Watson and Connelly, taken individually or in any proper combination, for at least the reasons given above with respect to independent Claim 30.

For at least the foregoing reasons, Applicants submit that the rejection of Claims 30-33, 35 and 37-44 as being unpatentable over Watson, in view of Connelly is overcome.

F. Claim 36

The Official Action rejects Claim 36 as being unpatentable over Watson in view of Connelly, and further in view of Traw. As explained above, independent Claims 15, 30, 45 and 60, and by dependency Claims 16-29, 31-44, 46-59 and 61-73, are patentably distinct from Watson and Connelly, taken individually or in any proper combination. Applicants respectfully submit that Traw does not cure the deficiencies of Watson and Connelly. That is, even considering Traw, none of Watson, Connelly or Traw, taken individually or in any proper

combination, teaches or suggests the aforementioned schedule, and presenting content (accessed from memory) consistent with the scheduled time for broadcast of the same content, as per independent Claims 15, 30, 45 and 60. Applicants therefore respectfully submit that independent Claims 15, 30, 45 and 60, and by dependency Claims 16-29, 31-44, 46-59 and 61-73, are patentably distinct from Watson in view of Connelly, and further in view of Traw.

For at least the foregoing reasons, Applicants submit that the rejection of Claim 36 as being unpatentable over Watson in view of Connelly, and further in view of Traw, is overcome.

CONCLUSION

In view of the remarks presented herein, Applicants respectfully submit that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues. As explained above, no new matter or issues are raised by this Reply, and as such, Applicants alternatively respectfully request entry of this Reply for purposes of narrowing the issues upon appeal.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

Andrew T. Spence
Registration No. 45,699

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111
LEGAL02/31482286v1

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON AUGUST 28, 2009.